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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	CR-18-00258-EJD
)	
Plaintiff,)	JOINT STATUS MEMORANDUM
)	
v.)	
)	
ELIZABETH HOLMES and)	
RAMESH "SUNNY" BALWANI,)	
)	
Defendants.)	
)	

The parties in the above-captioned matter hereby file this joint status memorandum in advance of the status conference set for October 15, 2018.

I. The Superseding Indictment

On September 6, 2018, the grand jury returned a Superseding Indictment against Defendants Holmes and Balwani. (Dkt. No. 39). The superseding indictment contains eleven counts against both defendants: two counts of conspiracy to commit wire fraud and nine counts of wire fraud.

Both Defendants have filed written waivers of appearance at arraignment and entries of "not guilty" pleas. (Dkt. Nos. 45, 48). The magistrate judge accepted these waivers on October 5, 2018, and

1 October 10, 2018, respectively. (Dkt. Nos. 51, 52).

2 **II. Status of Discovery**

3 Shortly after making their initial appearances on June 15, 2018, the Defendants requested
4 discovery. On August 7 of this year, the government produced more than four million pages of
5 discovery to the defense. On August 23, 2018, the government made an additional production of reports
6 of dozens of witness interviews it has conducted in its investigation, along with associated source
7 documents referenced in those interviews.

8 Since before the original Indictment in this case, the government has been working to prepare
9 and produce what it considers to be the remainder of the Rule 16 discovery in this case. Due to the
10 extremely large volume of material involved, the government has sent several million pages of
11 discovery to the DOJ's Litigation Technology Service Center ("LTSC") in South Carolina. This facility
12 has equipment that allows it to process and produce large volumes of documents faster and more
13 efficiently than in-house at the U.S. Attorney's Office. In addition, the government is informed that
14 productions from the LTSC are typically easier for defendants to access. Despite the LTSC's increased
15 bandwidth, however, the processing and bates stamping of these materials has taken months. The LTSC
16 recently finished processing one batch of more than six million pages of discovery, and the government
17 is currently copying that material onto separate hard drives for the two Defendants. The machine
18 copying that data estimates that the process will complete early next week, at which point the
19 government will make that production to Defendants. Another six-million-page batch of discovery is on
20 its way from the LTSC and should be received by the government soon. The government will copy and
21 produce those materials as soon as possible—likely before the end of October.

22 Once those batches are produced, the government estimates that these productions will represent
23 approximately ninety percent complete. However, as with any ongoing investigation, the government
24 will produce discoverable evidence upon receipt.

25 The parties propose a next Court date in or around January 2019.

26 **III. Pending and Anticipated Motion Practice**

27 On September 7, 2018, Defendants filed a motion seeking a cease and desist order blocking the
28 government from using a grand jury subpoena to obtain evidence post-Indictment. (Dkt. No. 40). The

1 government filed its opposition to that motion on September 24, 2018. (Dkt. No. 44). Defendants filed
2 a reply on October 1, 2018. (Dkt. No. 46). Today, Magistrate Judge van Keulen denied this motion, and
3 ordered the parties to meet and confer to agree upon procedures for a privilege review of Theranos'
4 September 14, 2018 production.

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6
7 DATED: October 12, 2018

Respectfully submitted,

8 ALEX G. TSE
9 United States Attorney

10
11 /s/
12 JEFF SCHENK
13 JOHN C. BOSTIC
14 ROBERT S. LEACH
15 Assistant United States Attorneys

16
17 DATED: October 12, 2018

18
19 /s/
20 KEVIN DOWNEY
21 LANCE WADE
22 Attorneys for Elizabeth Holmes

23
24 DATED: October 12, 2018

25
26 /s/
27 JEFF COOPERSMITH
28 MARK BARTLETT
Attorneys for Ramesh "Sunny"
Balwani